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[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/152732

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**PRELIMINARY RECITALS**

Pursuant to a petition filed October 08, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on November 07, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether Petitioner's FoodShare allotment has been correctly determined.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703  
By: Pang Thoa-Xiong  
Milwaukee Enrollment Services  
1220 W Vliet St, Room 106  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

David D. Fleming  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner filed this appeal of October 8, 2013 seeking an increase of her FoodShare benefits. Petitioner had been receiving FoodShare in the amount of \$367.00 through May 2013. In June that amount dropped to \$203.00 and remained at that level through the time of the hearing request.

3. Petitioner's case was reviewed in May 2013 and at that time Petitioner's allotment was reduced to \$203.00. Apparently this was because income allegedly increased and rent decreased. No documentation was provided as to demonstrate Petitioner's income, rent or what happened at the May 2013 review but testimony indicated that Petitioner's household had an increase in Social Security Federal or State benefits and child support to bring total household income to about \$880.00. Further, the agency determined that a rent expense of \$775.00 should be changed to about \$111.00.
4. Petitioner moved in June 2013. Her rent at that point became \$600.00 per month. Post hearing Petitioner submitted a copy of her lease which had a date stamp from the agency showing receipt by the agency on July 16, 2013. The agency had not incorporated that expense into Petitioner's FoodShare allotment formula calculation as of the hearing date.

### **DISCUSSION**

An under issuance of FoodShare benefits may be corrected for the 12 months prior to the discovery of the under issuance provided the recipient did not cause that under issuance. FoodShare Wisconsin Handbook, §7.4.1.1. Additionally, reported changes that cause an increase in FoodShare benefits are effective the month after the report. Id, §6.1.3.1.

Here the only clear thing is that Petitioner reported her new address and rent expense to the agency on July 16, 2013. Thus her \$600.00 shelter expense should have been included in the allotment calculation as of August 2013. The reason for the June 1, 2013 reduction is just not clear – simply put there is no documentary evidence provided as to the review, income, expenses and budget calculations as of May/June 2013 so that the undersigned can review and confirm that FoodShare benefits were correctly calculated.

The agency will have to redetermine Petitioner's FoodShare benefits as of June 1, 2013 forward. As of August 1, 2013 that calculation should include rent of \$600.00 per month. The agency must issue a new notice to Petitioner as to those calculations and I suggest that it send Petitioner a manual notice with the calculations detailed.

### **CONCLUSIONS OF LAW**

1. That the evidence is not sufficient to demonstrate that the agency correctly determine Petitioner's FoodShare allotment from June 1, 2013 forward.
2. That the evidence makes apparent that the agency failed to include Petitioner's rent expense in the FoodShare allotment calculation as of August 1, 2013 forward.

**THEREFORE, it is**

### **ORDERED**

That this matter is remanded to the agency with instructions to redetermine the amount of Petitioner's FoodShare allotment from June 1, 2013 forward taking special care to include her rent in those calculations as of August 1, 2013. Any under issuance must be restored. Notice(s) must be sent to Petitioner detailing the results of recalculation. This must be done within 10 days of the date of this order.

### **REQUEST FOR A REHEARING**

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative

Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

### **APPEAL TO COURT**

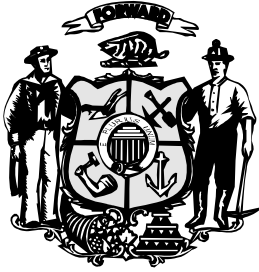
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 13th day of December, 2013

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David D. Fleming  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on December 13, 2013.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability